



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

March 21, 2005

Colonel Timothy J. Gallagher  
U.S. Army Corps of Engineers  
P.O. Box 898  
Anchorage, Alaska 99506-0898

Re: Mitigation for Permit DD-1982-0598  
Unalaska Bay 12

Attn: Jack Hewitt

Dear Col. Gallagher:

NOAA's National Marine Fisheries Service (NMFS) has reviewed Offshore System's Inc.'s (OSI) letter responding to an on-site mitigation proposal for the above referenced permit. NMFS supports the proposal to create a sloped area in the intertidal zone, which would mitigate for the loss of living marine resources, including Essential Fish Habitat (EFH).

OSI has in concept agreed to the proposal with the following conditions:

- a) This action will fully satisfy all mitigation requirements for subject permit application along with previously issued Permits S & W 1982-0598.

***NMFS response – NMFS agrees to this condition.***

- b) OSI's expenditure related to creating this 2 to 1 sloped inter-tidal area will not exceed \$100,000.

***NMFS response – The funds allotted to implement this project should not be limited to a particular dollar amount. The project is intended to offset previous impacts to aquatic habitat, and should be completed successfully to meet design specifications.***

- c) OSI will create this intertidal area on the perimeter of the exposed fill slope areas pertinent to Permits S & W and subject application except for fill sloped areas that lie under the existing 200' length steel pile supported dock. Any future constructed steel pile supported docks could incorporate this 2 to 1 intertidal slope area prior to the deck surface of such dock being constructed.

***NMFS response – Any future dock expansion needs should incorporate pre-application planning to expedite the permit process. Mitigation for future modifications to the permit should be handled on a case-by-case basis.***

- d) OSI's agreement to this mitigation will result in a timely issuance of Permit DD-



1982-0598.

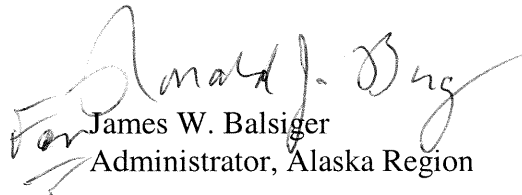
**NMFS response** – *OSI has a history of non-compliance with implementing mitigation. A construction schedule for the mitigation with assurances for satisfactory completion should be required as a special condition of the permit, along with ramifications should the mitigation not be completed during this time period. The Corps of Engineers should require OSI to post a performance bond in an amount sufficient to complete the work, and not less than the \$100,000 OSI estimates needing to finish the mitigation.*

- e) OSI will not be required to create this 2 to 1 slope intertidal area until such time as it begins to place fill authorized by Permit DD-1982-0598.

**NMFS response** – *NMFS disagrees with this condition. As previously stated, OSI has a history of non-compliance with implementing mitigation. NMFS recommends that the mitigation be completed as soon as possible, and that the placement of any additional fill be contingent upon first completing the mitigation.*

Thank you for the opportunity to comment on this proposal. We hope this information is useful to you and we remain willing to meet to discuss issues relating to this project. Please direct any questions regarding this project to Mr. Matthew Eagleton (907) 271- 5006.

Sincerely,

  
James W. Balsiger  
Administrator, Alaska Region

cc: USFWS, OPMP, OHMP – Anchorage  
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